

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

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TWENTIETH CENTURY FOX FILM CORP., *et al.*

*Plaintiffs,*

v.

MEGAUPLOAD LIMITED, *et al.*,

*Defendants.*

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No. 1:14cv362  
(LO / IDD)

**MOTION OF DEFENDANT MEGAUPLOAD LTD.  
FOR A STAY PENDING A PARALLEL CRIMINAL PROSECUTION**

Defendant Megaupload Limited (“Megaupload”) hereby moves for a stay of this action, and in support thereof, states as follows:

1. Plaintiffs filed this action on April 7, 2014, alleging claims for direct and secondary copyright infringement (Dkt. No. 1, *Complaint*). The defendants in this civil action are Megaupload, Vestor Limited (“Vestor”), Kim Dotcom (“Dotcom”), Mathias Ortmann (“Ortmann”), and Bram van der Kolk (“van der Kolk”), all of whom are foreign nationals (*Id.*, *Complaint* ¶¶ 19 – 23).

2. The Clerk issued summonses for each defendant (Dkt. No. 2), which have been returned unexecuted (Dkt. Nos. 14 -18). Alias summons have been issued (Dkt. No. 19). No service returns have yet been filed.

3. Megaupload and the other defendants in this civil action also have been indicted for racketeering, criminal copyright infringement, and other alleged crimes. *United States v. Kim Dotcom, et al.*, No. 1:12-cr-00003-LO (E.D. Va. filed Jan. 5, 2012) (“*Criminal Action*”). The *Criminal Action* is still pending.

4. In this civil action, Plaintiffs allege that they are victims of the putative criminal conspiracy alleged in the *Criminal Action* (Dkt. No. 1, *Complaint* ¶¶ 1 – 10), and Plaintiffs assert claims for copyright infringement based on the same conduct and activities that are at issue in the *Criminal Action* (*Id.* ¶¶ 24 – 46).

5. Defendants Megaupload, Dotcom, Vestor, and Ortmann also have been sued in another civil action now pending in this Court. *Microhits, Inc. v. Megaupload, Ltd.*, No. 1:12cv327-LO/IDD (E.D. Va. filed Mar. 21, 2012) (“*Microhits Action*”). Plaintiffs acknowledge that this case is “related” to the *Microhits Action* (Dkt. No. 1-2, Civil Cover Sheet). The *Microhits Action* has been stayed pursuant to an order entered by the Court, which stay has been continued and is still in effect. *Microhits Action*, No. 1:12cv327-LO/IDD (Dkt. Nos. 31, 36, 41, 44, and 46). The *Microhits Action* has been stayed, subject to terms and conditions, until August 1, 2014.<sup>1</sup>

6. Defendant Megaupload hereby moves the Court to enter the attached proposed order, staying this case on the same terms and conditions as in the *Microhits Action*.

7. Defendant Megaupload, however, does not waive any defense or procedural protections, including but not limited to defenses of insufficient service of process, lack of personal jurisdiction, and improper venue, nor does Megaupload waive the right to request additional time to file and serve a response under Rule 12 if this motion is denied or when any stay entered in this action expires or is lifted.

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<sup>1</sup> Defendants Megaupload, Dotcom, Vestor, Ortmann, and van der Kolk also have been sued in another civil action now pending in this Court. *Warner Music Group Corp. v. Megaupload, Ltd.*, No. 1:14cv374-LO/IDD (E.D. Va. filed Apr. 10, 2014) (“*Warner Music Action*”). The *Warner Music Action* is “related” to this action and the *Criminal Action*. *Warner Music Action*, No. 1:14cv374-LO/IDD (Dkt. No. 1-2 (Civil Cover Sheet)).

8. The grounds and reasons for granting this relief are stated in further particularity in the accompanying memorandum of law.

WHEREFORE, Defendant Megaupload Ltd. respectfully requests that the Court enter the attached proposed order staying this action until August 1, 2014.

Dated: May 10, 2014

Respectfully submitted,

/s/ Craig C. Reilly  
Craig C. Reilly, Esq. (VSB # 20942)  
111 Oronoco Street  
Alexandria, Virginia 22314  
TEL (703) 549-5354  
FAX (703) 549-2604  
[craig.reilly@ccreillylaw.com](mailto:craig.reilly@ccreillylaw.com)

Ira P. Rothken (*pro hac vice* pending)  
ROTHKEN LAW FIRM  
3 Hamilton Landing  
Suite 280  
Novato, CA 94949  
(415) 924-4250  
(415) 924-2905 (fax)  
[ira@techfirm.net](mailto:ira@techfirm.net)

*Counsel for Defendant Megaupload, Ltd.*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 10, 2014, the foregoing was filed and served electronically by the Court's CM/ECF system upon all registered users:

Julie M. Carpenter  
Kenneth L. Doroshow  
Scott B. Wilkens  
Erica L. Ross  
JENNER & BLOCK LLP  
1099 New York Ave., N.W.  
Suite 900  
Washington, D.C. 20001  
*Counsel for Plaintiffs*

/s/ Craig C. Reilly  
Craig C. Reilly, Esq. (VSB # 20942)  
111 Oronoco Street  
Alexandria, Virginia 22314  
TEL (703) 549-5354  
FAX (703) 549-2604  
[craig.reilly@ccreillylaw.com](mailto:craig.reilly@ccreillylaw.com)  
*Counsel for Defendant Megaupload, Ltd.*